REMARKS

Claims 1-14 are all the claims pending in the application. By this Amendment, Applicant amends claims 1, 12, and 14 to further clarify the invention. No new matter is being added.

I.   Summary of the Office Action

The Examiner withdrew all of the objections. In addition, the Examiner withdrew the rejections under 35 U.S.C. § 112, second paragraph and rejections under 35 U.S.C. § 101. The Examiner, however, maintained the prior art rejections. Specifically, claims 1-5, 8, and 9 as well as the previously added claims 10, 11, 13, and 14 are rejected under 35 U.S.C. § 102(b) and claims 6 and 7 and previously added claim 12 are rejected under 35 U.S.C. § 103(a).

II.   Claim Rejections under 35 U.S.C. § 102 and Statement of Substance of Interview

Claims 1-5, 8-11, 13, and 14 are rejected under 35 U.S.C. 102(b) as being anticipated by Wittmann et al., (AMnet: Active Multicasting Network), IEEE 1998 (hereinafter "Wittmann"). Applicant respectfully traverses these grounds of rejection at least in view of the following exemplary comments.

Applicant thanks the Supervisory Examiner and the Examiner for the courteous telephonic interview. The Statement of Substance of the Interview is as follows:

During the interview independent claim 1 was discussed in view of Wittmann. The Examiner further clarified his position that an active packet is broadly interpreted as *any* packet for an active node and Wittmann discloses having packets (QF module) for an active node. The Examiner, however, agreed that amended claim 1 overcomes the rejection of record subject to further search.

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It is respectfully submitted that the instant STATEMENT OF SUBSTANCE OF

INTERVIEW complies with the requirements of 37 C.F.R. §§1.2 and 1.133 and MPEP §713.04.

That is, in Wittmann, a new RSVP class, QoS filter is provided that is adopted to the

RSVP protocol. A particular type of filter is designated in a C-Type field (Fig. 2; page 898, §

3.2). Wittmann, however, simply discloses providing <u>passive information</u> relating to the type of

filtering. In Wittmann, the QoS object (alleged reservation packet) is nothing more than <u>passive</u>

<u>information</u> (filter parameters), as depicted in Figs. 2A and 2B. Accordingly, these passive

parameters, QoS objects, are provided to a QF Daemon for configuring the filter. In Wittmann,

there is no suggestion that <u>this passive information</u> (QoS object) is provided <u>in an active packet</u>

<u>format</u>. In other words, there is no disclosure or even remote suggestion of <u>the reservation</u>

<u>information being provided in an active packet format, where the active packet format indicates</u>

<u>that an executable code or identification of the server with downloadable executable code is</u>

<u>contained in the packet</u>.

Therefore, for all of the above exemplary reasons, independent claim 1 is patentably

distinguishable from Wittmann. Claims 2-5, 8-11, 13, and 14 are patentable at least by virtue of

their dependency on claim 1.

In addition, dependent claim 3 recites: "wherein said reservation packet is a PATH type

packet in accordance with RSVP protocol." As discussed during the interview, Wittmann does

not disclose or suggest having the RESV message in the PATH type packet. On the contrary,

Wittmann suggests that there are <u>two different types of packets</u> (the PATH messages and the

RESV messages, page 899). In short, there is no disclosure or suggestion that <u>the RESV</u>

message is in the PATH type packet. For at least these additional exemplary reasons, claim 3 is

patentably distinguishable from Wittmann.

Dependent claim 4 recites: "wherein the reservation packet comprises an identifier of the

said active data flow." As discussed during the interview, this rejection is improper as Wittmann

does not disclose or suggest having the RSVP message having an identifier of an active flow.

Although parameters for the QoS filter maybe provided, these parameters are not an identifier of

the active data flow *i.e.*, identifier of the application to which subsequent packets relate. For at

least these additional exemplary reasons, claim 4 is patentable over Wittmann.

III.   Claim Rejections under 35 U.S.C. § 103

Claims 6 and 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wittmann

in view of U.S. 6,393,474 to Eichert et al. (hereinafter "Eichert") and claim 12 is rejected under

35 U.S.C. § 103(a) as being unpatentable over Wittmann in view of an Official Notice.

Applicant respectfully traverses these grounds of rejections at least in view of the following

exemplary comments.

Claims 6, 7, and 12 depend on claim 1. Applicant has already demonstrated that

Wittmann does not meet all the requirements of independent claim 1. Eichert is relied upon only

for its disclosure of executable code (*see* pages 12 and 13 of the Office Action) and as such fails

to cure the deficient disclosure of Wittmann. That is, Wittmann does not disclose or even

remotely suggests packaging the passive information (*i.e.*, reservation request) into a format of

an active packet. That is, Wittmann discloses a conventional technique of having a RESV

message that is in a passive packet. Eichert discloses a conventional active packet that contains

code for execution. Eichert does not disclose or even remotely suggest having passive

information such as filter parameters of Wittmann in an active packet. The combined disclosures
of Wittmann and Eichert do not suggest having <u>passive information</u> (RESV message) <u>in an
active packet format</u> because as disclosed by Eichert, it is <u>the executable code that is provided in
an active packet</u>. Together, the combined disclosures of these references would not have (and
could not have) led the artisan of ordinary skill to have achieved the subject matter of claim 1.
Since claims 6, 7, and 12 depend on claim 1, they are patentable at least by virtue of their
dependency.

In addition, dependent claim 12 recites: "wherein the active packet format comprises a
marker in a header of the active packet, the marker indicating whether the packet is active or
passive, wherein, when the marker indicates the packet is active, the marker identifies that the
active packet comprises at least one of command, code, and program for execution in the active
node and wherein the reservation packet has the marker indicating the packet is active." The
Examiner takes Official Notice that flags are well known and for support relies on the
background of the invention as set forth in the specification of the above-identified application
(*see* pages 7-8 of the Office Action). Applicant respectfully disagrees. Applicant respectfully
challenges the Official Notice as detailed below and respectfully requests that the Examiner
withdraw this rejection or provide objective evidence of record for the allegedly well known
features.

Applicant respectfully submits that claim 12 does not recite the "general concept" of a
flag (*see* page 7 of the Office Action). On the contrary, claim 12 recites that the active packet
format comprises a marker in a header of the active packet... indicating whether the packet is
active or passive... wherein the reservation packet has the marker indicating the packet is active.

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Wittmann in view of background of the invention does not disclose or even remotely suggest having a reservation packet being marked in the header with a marker indicating that the packet is active. In other words, Applicant respectfully submits that the Official Notice is improper since it is not known in the prior art to mark the reservation packets (that contains passive information) with an active marker.

For at least these additional exemplary reasons, Applicant respectfully submits that claim 12 is patentable over the prior art of record.

IV.   Conclusion

In view of the above, reconsideration and allowance of this application are now believed to be in order, and such actions are hereby solicited. **If any points remain in issue, the Examiner is kindly requested to contact the undersigned attorney at the telephone number listed below to set up an interview**.

The USPTO is directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.

Respectfully submitted,

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